HON'BLE SHRI G.S.SINGHVI, THE CHIEF JUSTICE
AND
HON'BLE SHRI JUSTICE C.V.NAGARJUNA REDDY

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WRIT APPEAL No.327 of 2007

Between:

Khaja Naseeruddin
And another.

… Appellants

AND

The District Collector, Hyderabad
and others.

… Respondents

; JUDGMENT :

Counsel for the appellants : Shri M.V.Durga Prasad

Counsel for respondents 1 & 2 : G.P. for Revenue

Counsel for Respondent No.3 : Shri M.S.R.Subramanyam

Dated: 1st May, 2007

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Per C.V.NAGARJUNA REDDY, J.

This appeal is filed against the order dated 17.11.2006 passed by the learned single Judge in Writ Petition No.15001 of 2006 whereby he dismissed the said writ petition alongwith W.P.No.15757 of 2005 filed by the appellant.

The appellants claim to be the owners of Plot No.8A comprised in survey No.403 of Shaikpet village, Road No.2, Banjara Hills which fall within the limits of erstwhile Jubilee Hills Municipality. They claim that though the District Collector, Hyderabad initially rejected their application for grant of NOC, after remand of the matter by the Commissioner of Appeals, Andhra Pradesh, he granted NOC on 30.3.2005 to the extent of 2045 square meters and the Deputy Director, Survey and Land Records issued notices on 18.5.2005 for survey and demarcation of boundaries to plot No.8A. On 29.6.2005 Municipal Corporation of Hyderabad is said to have given permission to the appellants to construct compound wall. Respondent no.3 raised his objections to the appellants claim for survey of Plot No.8A. It is the case of the appellants that on the intervention of the Commissioner of Survey, Settlement and Land Records, the Deputy Director of Survey and Land Records, Hyderabad kept survey in abeyance on 8.6.2005. The Commissioner of Survey, Settlements and Land Records also vide his order dated 13.6.2005 kept the survey proceedings in abeyance. The appellants constructed a compound wall around Plot No.8A on the strength of permission granted by Municipal Corporation of Hyderabad on 29.6.2005 and the said permission was later kept in abeyance by the Corporation by order dated 22.7.2005. Questioning the proceedings of the Commissioner of Survey, Settlement and Land

Records the appellants filed W.P.No.15757 of 2005 and thereafter the appellants filed W.P.No.15001 of 2006 when the Mandal Revenue Officer, Banjara Hills demolished the compound wall of the appellants. Learned Single Judge by a common order dismissed both the writ petitions.

The appellants filed Writ Appeal No.1321 of 2006 against the order in W.P.No.15757 of 2005 and the present writ appeal (W.A.No.327 of 2007) against W.P.No.15001 of 2006. Earlier we heard W.A.No.1321 of 2006 and dismissed the same by our order dated 20.12.2006. It is apt to extract the relevant portion of the order in the said appeal herein below:

> " In our opinion, the order under challenge does not suffer from any patent legal infirmity and we feel that the ends of justice would be met by giving liberty to the appellants to raise all legally permissible objections to the very maintainability of the application/appeal filed by respondent No.3 against the survey conducted by the competent authority in respect of Plot No.8A, with a further direction that the objection raised by the appellants shall be objectively considered and decided by assigning cogent reasons.
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> In view of the above, the appeal is disposed of with the direction that respondent No.1 shall decide the appeal preferred by respondent No.3 in terms of the direction given by the learned Single Judge, i.e., within eight weeks from the date of receipt of copy of the order under challenge. While doing so, the officer concerned shall take cognizance of the objections which may be raised on behalf of the appellants and decide the same by passing a speaking order."

Heard Sri M.V.Durga Prasad, learned counsel for the appellants, learned Government Pleader for Revenue for respondents 1 and 2 and Sri M.S.R.Subramanyam, learned counsel for respondent No.3.

At the hearing the learned counsel for the appellants submitted that in pursuance of the directions issued by this Court in Writ Appeal

No.1321 of 2006 respondent No.1, after hearing the parties, cancelled NOC issued in favour of the appellants. Learned Government Pleader submitted that since the Municipal Corporation of Hyderabad kept the permission to construct compound wall in abeyance and the survey proceedings of Plot No.8A was not concluded in view of the objections raised by respondent No.3, the appellants have no right to claim Plot No.8A with distinctive boundaries and that therefore until he succeeds in getting the boundaries demarcated in accordance with law, he is not entitled to any relief in the present proceedings.

As already noted above, W.A.No.1321 of 2006 filed against W.P.No.15757 of 2006 raising substantive issues pertaining to survey and demarcation of Plot No.8A was dismissed. The NOC issued in favour of the appellant was cancelled by the Commissioner after disposal of the said writ appeal. Unless the appellants succeed in the restoration of the NOC, no substantive relief can be granted to them. In the circumstances, the appellants are given liberty to challenge the cancellation of NOC within a period of four weeks by availing appropriate legal remedy including filing of fresh writ petition and we deem it appropriate to direct that the parties shall maintain status quo as it is obtaining today for a period of four weeks.

The writ appeal is accordingly disposed of.

As a sequel to disposal of the appeal, WAMP Nos.702, 703 and 704 filed by the appellants are dismissed as infructuous.

C.V. NAGARJUNA REDDY, J

G.S.SINGHVI, CJ

Date:01-05-2007.

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